

New Hampshire Racing & Charitable Gaming Commission
Commission Meeting
Concord Office
August 24, 2010
10-10 (amended)

Present: Timothy J. Connors, Chairman
Warren W. Leary Jr., Secretary
Michael J. Gatsas, Member
Lynn M. Presby, Member
Bernard A. Streeter, Member
Anthony B. Urban, Member
Paul M. Kelley, Director
Steve Johnston, Supervisor Gaming Operations
William Dewhurst, Senior Auditor
Linda Glaser, Auditor
Shawn Graham, Auditor
Billie Jean Arseneault, Gaming/Licensing Supervisor
Charles Saia, Legal Coordinator
Linda Darrow, Administrative Secretary

In Attendance: Rick Newman, George Roberts, Jan DiMarzio, Ed Callahan, Kory Kamke, Dan Callaghan, Daniel Mullen, Michael McLaughlin, Jeff Reddington, Jaimie Timbas, Susan Geiger, Nick Bernardi, Dick Bouley, Alex Koutroubas, Marlin Torguson, Dick Anagnost, Peter Svendgard, Emile Burgoyne, Glenn McCrory, and others

The Chairman called the meeting to order at 11:05 a.m. and apologized for the late start.

On a motion by Commissioner Urban, seconded by Commissioner Streeter and unanimously voted to approve and place on file the Commission minutes dated July 19, 2010.

The Racing & Charitable Gaming statistics for the fiscal period ending August 12, 2010 were reviewed. On a motion by Commissioner Urban, seconded by Commissioner Streeter and unanimously voted to accept and place on file. It was noted that the numbers continue to trend downward. Director Kelley stated that the NH tracks may get more business with the closing of the Wonderland track in Massachusetts.

The Games of Chance warning letters spreadsheets were reviewed. Director Kelley reported all responses have been received and are now up to date. On a motion by Commissioner Urban, seconded by Commissioner Leary and unanimously voted to accept and place on file.

The Games of Chance State Revenue spreadsheets were reviewed. On a motion by Commissioner Urban, seconded by Commissioner Streeter and unanimously voted to accept and place on file.

Attorney Mullen addressed the Commission requesting the Lodge at Belmont be authorized to offer instant racing/historical racing. Discussion ensued. Commissioner Streeter made a motion to authorize the Lodge at Belmont to offer instant racing/historical racing. The motion was not seconded. On a motion by Commissioner Presby, seconded by Commissioner Leary and unanimously voted to take the request under advisement, give staff 30-60 days to fact find/create list of questions that need to be addressed and then hold a work session to resolve. Commissioner Presby volunteered to work with staff on this matter.

On a motion by Commissioner Urban, seconded by Commissioner Streeter and unanimously voted to move forward with the initial proposal amending Pari 1210.01 and schedule a public hearing.

New Games Submission

- A Lucky 7 dispensing device demonstration was presented by Mr. Svendgard and Mr. Burgoyne of International Gamco, Inc. in conjunction with Mr. Anagnost of Ellas Distributors/Diamond Distributors. Attorney Daniel J. Mullen of Ransmeier and Spellman, counsel representing Ellas Distributors/Diamond Distributors, provided written information on how this device meets the required state regulations required by Pari 1112.06(e). On a motion by Commissioner Presby, seconded by Commissioner Leary and unanimously voted to have staff develop standards to be met by the manufacturers of Lucky 7 dispensing machines. Staff to report back with standards at the next meeting.
- Mr. Rick Newman asked that his request for approval of certain Shufflemaster electronic games be tabled until the next meeting in order to develop answers to some critical questions.
- Discussion ensued on the request for approval by the Lodge at Belmont for the Big Six Money Wheel game. On a motion by Commissioner Urban, seconded by Commissioner Streeter and unanimously voted to approve the request.
- Discussion ensued on the request for approval by the Lodge at Belmont for the Lottery-Scratch and Win Promotion. Mr. Newman was asked to provide a white paper for the next Commission meeting. On a motion by Commissioner Gatsas, seconded by Commissioner Urban and unanimously voted to have staff contact the AG's office to determine if this type of game falls under the Lottery Commission or RCGC's authority.

At 11:55 a.m., a five-minute recess was called before moving on to the scheduled hearing for Seacoast Poker, LLC.

At noon, Chairman Connors called the meeting to order.

Seacoast Poker LLC Hearing

At 12:00 noon, the Chairman opened the hearing on Seacoast Poker LLC. Legal Coordinator Saia provided an overview of the seven (7) letters of warning and hearing notices sent to Seacoast Poker LLC and the appropriate sanctions levied which were agreed to by Attorney Michael McLaughlin, counsel to Seacoast Poker LLC. On a motion by Commissioner Urban, seconded by Commissioner Presby and based on all evidence received and all testimony heard voted unanimously for the following:

Decisions & Orders Seacoast Poker, LLC

Findings of Fact

1. On or about May 12, 2010, the RCGC forwarded to you the Audit of Seacoast Poker, LLC (Seacoast) (License # E0002). The RCGC performed its Audit of Seacoast pursuant to RSA 287-D:5 VI and PARI 1212.01(b) and (c), for the period of July 1, 2008 to June 30, 2009.
2. In its Audit, the RCGC made certain observations and recommendations for Seacoast to consider in its business practices. The RCGC outlined a number of issues in the Audit which conflict with existing statutes and rules, to wit:
 - a. Observation #1(Hearing #1): Seacoast failed to maintain source documentation to support games of chance activities, as required by RSA 287-D:5 VII.

- b. Observation #2 (Hearing #2): Seacoast's implemented procedural changes were not submitted to the RCGC, as required by Pari 1210.01 (h) and (i).
 - c. Observation # 3 (Hearing #3): Seacoast did not complete the agreement between the charity and Seacoast prior to the game dates, as required by RSA 287-D: 2-b, II and II-a.
 - d. Observation # 4 (Hearing #4): Seacoast did not pay all of its expenses by check from a bank account as required by RSA 287-D: 2-c, VI.
 - e. Observation #7 (Hearing # 5): Seacoast did not follow the prize check cashing procedure as required by Pari 1210.01 (s).
 - f. Observation # 8 (Hearing #6): Seacoast's house rules did not comply with the requirements of Pari 1209.01 (c) (1-11, inclusive).
 - g. Observation #9 (Hearing #7): Seacoast failed to post and make available for inspection copies of the statutes and rules as required by PARI 1208.01 (b).
3. On June 4, 2010, seven (7) Letters of Warning & Hearing Notices were sent via USPS, Certified Mail, Return Receipt Requested, to Seacoast indicating that seven (7) hearings would be held on June 16, 2010 regarding the potential violations of RSA 287-D, and the RCGC's Rules, as delineated above.
 4. On June 11, 2010, Attorney Michael McLaughlin contacted the RCGC and entered his appearance on behalf of Seacoast. Attorney McLaughlin requested a continuance of the hearings.
 5. On June 16, 2010, at its regularly scheduled meeting, the RCGC granted Attorney McLaughlin's request and continued the seven (7) Seacoast hearings, pursuant to Pari 200 and ARCI-003-010 (E) (2). The hearings were continued to July 19, 2010.
 6. On July, 19, 2020, the RCGC convened the hearings to determine if administrative sanctions and/or fines would be imposed for the potential violations of RSA 287-D and the applicable RCGC Administrative Rules.
 7. Attorney McLaughlin stipulated to the violations as referenced in Hearing #'s 1, 2, & 5, above. He further stipulated that the violation in Hearing #1 is a Moderate Violation, and that the violations in Hearing #s 2 & 5, respectively, are Minor Violations. Attorney McLaughlin reserved his right to present mitigating circumstances at a future hearing to determine the sanctions and/or fines. The Commissioners of the RCGC granted Attorney McLaughlin's motion to remand Hearing #'s 3, 4, 6, & 7 to staff, so that an offer of disposition may be presented to the Commissioners of the RCGC at its next regularly scheduled meeting.
 8. On August 24, 2010, at the meeting of the RCGC, a "Proposed Settlement Agreement" (attached herewith and incorporated herein by reference), was presented to the Commissioners of the RCGC for their Approval and Adoption.

Conclusions of Law

Hearing #1

1. RSA 287-D:5 VII states that a charitable organization shall maintain complete and accurate documentation of all revenues and expenses contained in the financial reports for at least 2 years from the date the financial report is filed.
2. The RCGC accepted Seacoast's stipulation to the violation, and concludes that Seacoast violated the relevant portions of RSA 287-D.
3. Based on testimony given and information received, the RCGC concludes that the violation is a moderate violation pursuant to RSA 287-D:6, IX(b).
4. The RCGC determines that a fine of \$1,500.00 is appropriate for this type of violation.
5. Pursuant to Pari 1217.01 (h), the fine of \$1,500.00 as imposed by the RCGC, shall be paid within 5 days of receipt of the final order pursuant to Pari 202.

Hearing #2

1. Pari 1210.01 9 (h) states that if the games of chance licensee has previously submitted procedures to the commission, the games of chance licensee shall only submit written procedures if those procedures are

changed or revised in any way, and (i) pursuant to (h) above, the games of chance licensee shall submit changed or revised written procedures within 7 days of the changes or revisions.

2. The RCGC accepted Seacoast's stipulation to the violation, and concludes that Seacoast violated the relevant portions of Pari 1210.01.
3. The Based on testimony given and information received, the RCGC concludes that the violation is a minor violation pursuant to RSA 287-D:6, IX(b).
4. The RCGC determines that a fine of \$500.00 is appropriate for this type of violation.
5. Pursuant to Pari 1217.01 (h), the fine of \$500.00 as imposed by the RCGC, shall be paid within 5 days of receipt of the final order pursuant to Pari 202.

Hearing #3

1. RSA 287-D: 2-b, II and II-a, states that no compensation shall be paid to operators of a game of chance unless agreed to in advance in writing by the charity. Compensation shall include, but is not necessarily limited to, money or any other thing of value. If the paid game operator's compensation is contingent upon the amount of revenue received from a game of chance, the compensation shall be a fixed percentage of the gross revenue from the game of chance excluding the paid game operator's expenses. If the compensation of a paid game operator is not contingent upon the amount of revenue received, the compensation shall be a reasonable estimate, expressed as a percentage of the gross revenue. The contract shall clearly disclose the assumptions upon which the estimate is based. The stated assumptions shall be based upon all of the relevant facts known to the paid game operator.
2. The RCGC accepted Seacoast's stipulation to the violation, and concludes that Seacoast violated the relevant portions of RSA 387-D.
3. Based on testimony given and information received, the RCGC concludes that the violation is a minor violation pursuant to RSA 287-D:6, IX(b).
4. The RCGC determines that a fine of \$25.00 is appropriate for this type of violation.
5. Pursuant to Pari 1217.01 (h), the fine of \$25.00 as imposed by the RCGC, shall be paid within 5 days of receipt of the final order pursuant to Pari 202.

Hearing #4

1. RSA 287-D: 2-c, VI states that to be eligible for licensure under this chapter, a licensed game operator shall maintain an account at a financial institution with at least one branch in New Hampshire solely in the name of the licensed game operator in which the money from games of chance shall be deposited and withdrawn.
2. The RCGC accepted Seacoast's stipulation to the violation, and concludes that Seacoast violated the relevant portions of RSA 287-D.
3. Based on testimony given and information received, the RCGC concludes that the violation is a minor violation pursuant to RSA 287-D:6, IX(b).
4. The RCGC determines that a fine of \$250.00 is appropriate for this type of violation.
5. Pursuant to Pari 1217.01 (h), the fine of \$250.00 as imposed by the RCGC, shall be paid within 5 days of receipt of the final order pursuant to Pari 202.

Hearing #5

1. Pari 1210.01 (s) states that if a games of chance licensee cashes a check which was issued for a prize of more than \$500, a member of the charitable organization or a primary game operator cashing the check shall print and sign their name on the back of the check and the check shall be kept by the games of chance licensee for 2 years.
2. The RCGC accepted Seacoast's stipulation to the violation, and concludes that Seacoast violated the relevant portions of Pari 1210.01.
3. Based on testimony given and information received, the RCGC concludes that the violation is a minor violation pursuant to RSA 287-D:6, IX(b).

4. The RCGC determines that a fine of \$250.00 is appropriate for this type of violation.
5. Pursuant to Pari 1217.01 (h), the fine of \$250.00 as imposed by the RCGC, shall be paid within 5 days of receipt of the final order pursuant to Pari 202.

Hearing #6

1. Pari 1209.01 (c) states that a games of chance licensee shall adopt and follow house rules that address at least the following: (1) The buy-in and re-buy amounts for any games of chance where the chips have no monetary value; (2) The contingency plan for inclement weather, power outages, equipment failure and other emergencies; (3) The refund policy; (4) The method of play, buy-in amount and re-buy amount(s) for all games of chance to be conducted; The statutory limit per person per game as specified in RSA 287-D:2-b, XI; (6) The bet limit for all games; (7) Smoking/non-smoking policy which shall comply with RSA 155:66 through RSA 155:70; (8) The effective date of the house rules; (9) How a player can contact the commission with comments, concerns or questions; (10) That the games of chance will be conducted in accordance with RSA 287-D and this chapter; and (11) The charitable purpose(s) for which proceeds from the games of chance will be used.
2. The RCGC accepted Seacoast's stipulation to the violation, and concludes that Seacoast violated the relevant portions of Pari 1209.01.
3. Based on testimony given and information received, the RCGC concludes that the violation is a minor violation pursuant to RSA 287-D:6, IX(b).
4. The RCGC determines that a fine of \$150.00 is appropriate for this type of violation.
5. Pursuant to Pari 1217.01 (h), the fine of \$150.00 is imposed by the RCGC, shall be paid within 5 days of receipt of the final order pursuant to Pari 202.

Hearing #7

1. Pari 1208.01 (b) states that a games of chance licensee shall post with the license at least 2 copies of RSA 287-D, this chapter and any house rules as required by Pari 1209.01.
2. The RCGC accepted Seacoast's stipulation to the violation, and concludes that Seacoast violated the relevant portions of Pari 1208.01.
3. Based on testimony given and information received, the RCGC concludes that the violation is a moderate violation pursuant to RSA 287-D:6, IX(b).
4. The RCGC determines that a fine of \$150.00 is appropriate for this type of violation.
5. Pursuant to Pari 1217.01 (h), the fine of \$150.00 as imposed by the RCGC, shall be paid within 5 days of receipt of the final order pursuant to Pari 202.

Order

1. The RCGC orders that Seacoast Poker, LLC shall be fined, in the total amount of \$2,825.00, as delineated above, in the Conclusions of Law, Hearing #s 1-7, inclusive for the violations of RSA 287-D and the relevant RCGC Administrative Rules.
2. Payment of the fines is independent of any further fines or actions the Commission may take for any subsequent violations that makes this order payable.
3. Further, the Commissioners of the RCGC approve, adopt and make part of this the Decision & Order, the Proposed Settlement Agreement respectfully submitted to the Commissioners of the Racing and Charitable Gaming Commission for their Approval and Adoption, duly executed and dated August 24, 2010, attached herewith and incorporated herein by reference.

So Ordered.

(Seacoast Settlement Agreement is attached at the end of the minutes)

Action Items:

- a. *Feasibility of introducing Bingo Mundo to charitable gaming in NH:* Discussion ensued on the best way to move this request forward. Director Kelley handed out copies of "Operations of a Shared Carryover Coverall Game", a starting point for rules promulgation. On a motion by Commissioner Urban, seconded by Commissioner Leary and unanimously voted to move forward with the rule making process.
- b. *Director Kelley to prepare a proposal on specific financial information primary game operators should provide the agency on a regular basis:* A preliminary proposal was provided. On a motion by Commissioner Urban, seconded by Commissioner Streeter and unanimously voted to move forward with the rule making process.
- c. *Attorney Daniel J. Mullen to provide a detailed written explanation of Eastern Poker Tournament's (EPT) rules, regulations and operational procedures:* Discussion ensued on how to move forward with this request. On a motion by Commissioner Gatsas, seconded by Commissioner Urban and unanimously voted to give conditional approval for EPT to operate on a trial basis in NH for one cycle which will begin in September 2010 and end February 2011. Conditions of the approval:
 - EPT will become licensed as a game operator employer.
 - EPT will post a bond for \$30,000 – the prize to be offered at the final Tournament of Champions. The winner of the \$30,000 prize will pay a 10% tax on the winnings, payable to the State of NH.
 - The Tournament of Champions will be held at a New Hampshire venue.
 - Only those who earn a seat at the table will play in the Tournament of Champions (no substitutes).
 - The cost for lesser awards (jackets etc.) won during the tournament will be deducted from the prize money. Total prizes not to exceed 80%.
 - Staff to monitor the process
- d. *"Netting" house games – staff to work with game operators to resolve questions:* Senior Auditor Dewhurst provided a report of the round-table discussion which took place with several game operators on July 28th. Discussion ensued. On a motion by Commissioner Gatsas, seconded by Commissioner Presby and unanimously voted to ask staff to study the current regulations and how SB367 (10-day rule) which becomes law on January 1st will affect/change the current rules; and for staff to define what constitutes a game (cash game/table game/card game).
- e. *Technology Exclusive dispensing devices - staff to do further research:* Attorney Susan Geiger, counsel for Technology Exclusive, is working with staff and her client to design the ticket dispensing machine so that it complies with NH law. She will be meeting with staff to work out the details. The compliant Lucky 7 dispensing machine will be demonstrated at the next scheduled Commission meeting in September. Attorney Geiger also handed out her written response to Legal Coordinator Saia's memo of August 15, 2010 clarifying certain points.

Correspondence was reviewed for informational purposes only.

RCGC monthly activities for July 2010:

General:

- Continued to research and address various issues regarding EPT games and its legality.
- Responded to requests for information by Atty. Mullen and Mr. Rich Bedrosian under the right to know law.
- Addressed personnel matters with SEA.
- Researched and reviewed Electronic Pull Tab Dispensing Machine issues to compile a white paper for consideration by the Commission.
- Addressed occupational license issues.

- Proposed additional rules Games of Chance rules requirements under Pari 1210.01 for games of chance approvals and written procedures for card and non card games.

Administrative Staff Meetings/Training/Site Visits:

- Visited Granite State poker Room and Rockingham Park to observe Games of Chance procedures.
- Met with Atty. McLaughlin re. disposition of Seacoast audit findings.
- Met with Belmont Gaming to review new game (Black Jack Tie) introduced.
- Met with game operators to solicit input on netting of losses with gains on house games.

Licensing/ Enforcement:

- Issued (226) new and renewal licenses including (16) organizations, (89) Bingo, (92) Lucky 7, and (29) game operators.
- Processed (140) financial reports for Bingo/Lucky 7 and Games of Chance and 150 invoices for Games of Chance receipts.

Accounting/Finance:

- Processing AP invoices & CR revenue transactions in databases & Lawson.
- Payroll processing (bi-weekly).
- Month-end reconciliations (databases vs. Lawson) – Paristat, Bingo/L7, GOC.
- Racetrack employee licensing (6 licenses processed in July).
- Monthly reconciliations of GOC data entry.
- FY10 Year-end closing process – Exhibit K for Accts Receivable, 13th period invoice pmts, Indirect Cost transfer to DAS, annual cost & mileage MV reports
- Preliminary work begun on FY12/13 agency budget work.
- Procedure established for processing Outs payments eligible for withholding 10% gambling winnings tax.

Audit:

- Reviewed and submitted the monthly Pari-Pool information.
- Reviewed Financial Reports of the Lodge at Belmont.
- Completed a review of Yankee Greyhound Racing monthly distribution of simulcast distribution.
- Collected and complied data on Lucky 7 sales.
- Continued developing bingo and lucky 7 work papers to support the bingo audit program.
- Began pre-audit preparation on a specific organization.
- Began work on rule changes to support SB 367 statute changes.
- Made a second site visit to observe operations at Concord Bingo Too- Dover.
- Continued in-house testing of source documents and initial drafting of the audit report for the audit of Concord Bingo Too – Dover location.
- Collected input from Game Operators regarding the “netting” of house games; prepared a brief report for the Commission.
- Researched the issue of “points tournaments”.
- Worked to resolve outstanding hearing issues regarding Seacoast Fundraising audit.
- Continued improvements on game schedule approvals and tracking.
- Continued working on Reconciliation of GOC data base to Lawson system. Attempted to identify “keying” errors.
- Initiated GOC database improvements.
- Audit training with Deputy Director.

Old Business:

None

At 1:25 p.m., a five-minute recess was called before moving on to new business. At 1:30, the Chairman called the meeting to order.

New Business:

- Director Kelley handed out copies of an item provided by Mr. Ed Callahan, a list of the non-profits in NH in danger of losing their non-profit status with the IRS because of failure to file Form 990.
- A draft copy of the Chairman's letter for the Annual Report was reviewed.

At 1:35 p.m., on a motion by Commissioner Leary, seconded by Commissioner Urban and by a unanimous roll call vote the Commission voted to adjourn the regular meeting and go into non-public session as allowed for in RSA 91-A:3 II (c), to discuss financial matters.

Connors	-	Yes
Leary	-	Yes
Gatsas	-	Yes
Presby	-	Yes
Streeter	-	Yes
Urban	-	Yes

At 1:40 p.m., on a motion by Commissioner Urban, seconded by Commissioner Streeter and by a unanimous roll call vote, the Commission voted to come out of the non-public session.

Connors	-	Yes
Leary	-	Yes
Gatsas	-	Yes
Presby	-	Yes
Streeter	-	Yes
Urban	-	Yes

Discussion ensued relative to existing Tabtronic T8C ticket dispensing machines which are in the state of New Hampshire, some of which previously fell under the authority of the Lottery Commission. The machines were not formally approved by the Lottery Commission or RCGC; therefore, should the machines remain in the state? The Tabtronic T8C ticket dispensing machines were originally sold by a NH licensed manufacturer and purchased by a NH licensed distributor. On a motion by Commissioner Presby, seconded by Commissioner Urban and unanimously voted to allow the existing Tabtronic T8C ticket dispensing machines with the following serial numbers to remain in operation in the state - serial numbers: 42439, 42442, 42448, 42454, 42457, 42460, 42463, 42466, 42469, 42517, 42767, 42797, 42800, 42806, 42944 and 42947. Further, no new Tabtronic T8C ticket dispensing machines shall be allowed in the state unless they are from a licensed manufacturer and have been approved by the Commission.

Discussion turned to New England Association of the Amateur Athletic Union of the United States (NEAAU). Director Kelley provided a synopsis of the situation followed by Senior Auditor Dewhurst outlining serious violations committed by NEAAU such as: non-charity members running the Bingo/Lucky 7 sales; comingling of funds between Bingo and Lucky 7; failing to produce financial records when requested by RCGC. Legal Coordinator Saia was asked his opinion regarding these violations. Legal Coordinator Saia opined that the Bingo License may be suspended and subsequently revoked and that the Lucky 7 License may be immediately

revoked per the applicable RSA and Pari rules. It was the recommendation of Director Kelley that the Commission begin the suspension/revocation process. On a motion by Commissioner Presby, seconded by Commissioner Leary and unanimously voted to take the necessary steps to suspend and revoke NEAAU's Bingo and Lucky 7 licenses.

At 1:50 p.m., on a motion by Commissioner Urban, seconded by Commissioner Leary and by a unanimous roll call vote the Commission voted to adjourn the regular meeting, and go back into non-public session.

Connors	-	Yes
Leary	-	Yes
Gatsas	-	Yes
Presby	-	Yes
Streeter	-	Yes
Urban	-	Yes

At 1:55 p.m., on a motion by Commissioner Urban, seconded by Commissioner Leary and by a unanimous roll call vote the Commission voted to come out of the non-public session and to permanently seal the non-public minutes.

Connors	-	Yes
Leary	-	Yes
Gatsas	-	Yes
Presby	-	Yes
Streeter	-	Yes
Urban	-	Yes

The next Commission meeting is scheduled for Friday, September 24, 2010 in Concord beginning at 10:00 a.m.

The public meeting was closed at 2:00 p.m.

Respectfully Submitted,

Warren W. Leary, Jr.
Secretary